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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/033,832	03/03/1998	WALTER W. MOSHER JR.	PREDYN-42891	2572

7590 09/05/2003

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EXAMINER

GREEN, BRIAN

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/033,832

Applicant(s)

MOSHER ET AL.

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 30-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the indicia defined in claims 36 and 43 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

Claims 36 and 43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Stating in claims 36 and 43 that the strap includes indicia identifying the strap first end is considered to be new matter. The applicant discloses on page 5, last five lines, that the extremity is "marked" which is considered to be of a different scope as compared to "indicia" as defined in claims 36 and 43.

Claims 31,39, and 41-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Stating in claims 31,39, and 42 that the strap comprises a wristband is awkward and confusing, i.e. how can the strap comprise a wristband. The strap forms a wristband but it doesn't comprise a wristband. In claim 41, line 3, "ends, strap defining" is awkward and confusing.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-32,34,35,38-39,41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong (U.S. Patent No. 4,612,719) in view of Hayes (U.S. Patent No. 4,718,374).

de Jong shows in figures 1-3 a disposable attachment means (6), a reusable securement means (3,4,7,8), a detection unit (2) embedded within the securement means, and each of the extremities of the attachment means pass through at least one opening (see figures 1 and 3) and the extremities overlap (see figures 1 and 3, left hand side, the left extremity passes over the right extremity). de Jong discloses in column 2, lines 55-57 the idea of embedding the detection unit. In regard to claims 31 and 39, the securement means is considered to be a wristband since it could be worn on a wrist. De Jong does not disclose the idea of making the detection unit in the

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form of a radio frequency identification circuit. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit device (60) embedded therein. In view of the teachings of Hayes it would have been obvious to one in the art to modify de Jong by replacing the detection unit with a radio frequency identification device since this would allow information from the responder to be sent out and received in an easier and faster manner. In regard to claims 35, 41, and 42, de Jong shows in figure 9 that the strap includes openings (the opening formed by the loop which receives members 90) in each end of the strap.

Claims 33, 36, 40, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong in view of Hayes as applied to claims 30, 38, and 41 above, and further in view of Tokunaga (U.S. Patent No. 5,168,281) or Yamamori (U.S. Patent No. 5,986,566).

De Jong in view of Hayes disclose the applicant's basic inventive concept except for placing the antenna in the attachment means/wristband. Tokunaga shows in figures 1-5 the idea of placing an antenna (3) within a wristband (2). Yamamori shows in figures 1-2 the idea of placing an antenna (121) within a wristband (112). In view of the teachings of Tokunaga or Yamamori it would have been obvious to one in the art to modify de Jong in view of Hayes by placing the antenna within the attachment means/wristband since this would allow the radio frequency identification circuit to send and receive information in a better manner. In regard to claims 36 and 43, the applicant defines in the specification that the band is marked, as broadly defined, the first end of the strap is considered to be "marked" by the plate (40 or 60) which is attached to the first end of the strap.

Claims 30-32,34,35,38-39,41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al. (U.S. Patent No. 4,598,275) in view of de Jong (U.S. Patent No. 4,612,719).

Ross et al. shows in figures 1-6 a disposable strap (24), a reusable securement means (26), and a radio frequency identification device (20) embedded within the strap. Ross et al. does not disclose the idea of embedding the RFID device (20) within the securement means. De Jong shows in figures 1-9 the idea of embedding a detection device (2) within a securing device. In view of the teachings of de Jong it would have been obvious to one in the art to modify Ross et al. by replacing the securement means with the type taught by de Jong and embedding the RFID circuit within the de Jong securement means since this would help to protect the circuit in a better manner and would allow the circuit to be reused. In regard to claims 35,37,41,42, and 44, de Jong shows in figure 9 that the strap includes openings (the opening formed by the loop which receives members 90) in each end of the strap. The loops are considered to form an elongated tubular band.

Claims 33,36,40, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al. in view of de Jong as applied to claims 30,38, and 41 28 above, and further in view of Tokunaga (U.S. Patent No. 5,168,281) or Yamamori (U.S. Patent No. 5,986,566).

Ross et al. in view of de Jong disclose the applicant's basic inventive concept except for placing the antenna in the attachment means/wristband. Tokunaga shows in figures 1-5 the idea of placing an antenna (3) within a wristband (2). Yamamori shows in figures 1-2 the idea of placing an antenna (121) within a wristband (112). In view of the teachings of Tokunaga or

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Yamamori it would have been obvious to one in the art to modify Ross et al. by placing the antenna within the wristband since this would allow the radio frequency identification circuit to send and receive information in a better manner. In regard to claims 36 and 43, the applicant defines in the specification that the band is marked, as broadly defined, the first end of the strap is considered to be "marked" by the plate (40 or 60) of de Jong which is attached to the first end of the strap.

Claims 30-32,34,35,38-39,41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen (U.S. Patent No. 5,479,797) in view of Hayes (U.S. Patent No. 4,718,374) and de Jong (U.S. Patent No. 4,612,719).

Petersen shows in figures 1-6 a disposable attachment means (20) and a reusable securement means (10). The extremities of the attachment means pass through openings in the securement means and overlap, see figures 4 and 5. Petersen does not disclose embedding a radio frequency identification device within the securing means. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit device (60) embedded therein. De Jong shows in figure 1 the idea of embedding a detection device (2) within a securing device. In view of the teachings of Hayes and de Jong it would have been obvious to one in the art to modify Petersen by embedding an RFID within the securing means since this would allow information to be stored on the band, the information changed as desired, and the information transmitted to a distant location in an easier and faster manner. In regard to claims

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35,41, and 42, de Jong shows in figure 9 that the strap includes openings (the opening formed by the loop which receives members 90) in each end of the strap.

Claims 33,36,40, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen in view of Hayes and de Jong as applied to claims 19,23, and 28 above, and further in view of Tokunaga (U.S. Patent No. 5,168,281) or Yamamori (U.S. Patent No. 5,986,566).

Petersen in view of Hayes and de Jong disclose the applicant's basic inventive concept except for placing the antenna in the attachment means/wristband. Tokunaga shows in figures 1-5 the idea of placing an antenna (3) within a wristband (2). Yamamori shows in figures 1-2 the idea of placing an antenna (121) within a wristband (112). In view of the teachings of Tokunaga or Yamamori it would have been obvious to one in the art to modify Petersen in view of Hayes and de Jong by placing the antenna within the attachment means/wristband since this would allow the radio frequency identification circuit to send and receive information in a better manner. In regard to claims 36 and 43, the applicant defines in the specification that the band is marked, as broadly defined, the first end of the strap is considered to be "marked" by the plate (40 or 60) of de Jong which is attached to the first end of the strap.

Claims 30,35,37,41, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacDonald (U.S. Patent No. 5,323,554) in view of Ross et al. (U.S. Patent No. 4,598,275) and de Jong (U.S. Patent No. 4,612,719).

MacDonald shows in figures 6-10 a disposable tubular band (14) and a reusable securement means (40). The opposite ends of the strap (14) have openings which receive the opposite ends



of the securement means (40). MacDonald does not disclose embedding a radio frequency identification device within the securing means. Ross et al. shows in figures 1-2 a strap having an identification circuit device (20) embedded therein. De Jong shows in figure 1 the idea of embedding a detection device (2) within a securing device. In view of the teachings of Ross et al. and de Jong it would have been obvious to one in the art to modify MacDonald by embedding an RFID within the securing means since this would allow information to be stored on the band, the information changed as desired, and the information transmitted to a distant location in an easier and faster manner.

#### ***Response to Arguments***

Applicant's arguments filed June 27, 2003 have been fully considered but they are not persuasive.

The applicant argues that the securement means of de Jong is not removable from the strap for subsequent assembly and re-use with a replacement strap. The examiner disagrees since the securement means of de Jong can be removed from the strap, i.e. cutting, etc. and the securement means can be used with another strap.

The applicant argues that Hayes reference does not disclose or suggest a strap of any kind and there is nothing in the Hayes reference which can be combined with the de Jong reference. The examiner disagrees since the de Jong and the Hayes patents are both directed to electronic systems for providing information. The Hayes patent is merely being used to show that it is known to use a RFID circuit within an electronic tag and this would provide the advantage of allowing information to be sent out and received in an easier manner.

The applicant argues that the combination of Ross in view of Peterson and de Jong suffers from the same problem argued above in that the Ross, Peterson and de Jong fail to show a securement means that is removable from a strap and then reused with another strap. As discussed above, the examiner disagrees since the securement means of de Jong can be removed from the strap, i.e. cutting the strap to release the securement means, etc., and the securement means can be reused with another strap. Also, as long as the securement means of the de Jong is capable of being used it is considered to read on the applicant's claims. Further, the Peterson reference is no longer being combined with the Ross patent since the applicant amended the claims in such a manner that the Peterson patent is no longer needed.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

  
BRIAN K. GREEN  
PRIMARY EXAMINER

Bkg  
Sept. 4, 2003